CLOSED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

United States of America

v.

Emilio Avila-Barba

Citizen of Mexico

USM#: 75450208 DOB: 1969

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed on or After November 1, 1987)

No. 08-15573-001M-SD

Brenda Acosta Sandoval (AFPD)
Attorney for Defendant

ICE#: A088 764 951

THE DEFENDANT ENTERED A PLEA OF guilty on 4/4/2008 to Count ONE of the Complaint.

ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S): violating Title 8, USC § 1325, Illegal Entry, a Petty offense, as charged in Count ONE of the Complaint.

IT IS THE JUDGMENT OF THE COURT THAT the defendant is hereby committed to the custody of the Bureau of Prisons for a term of FIFTEEN (15) DAYS on Count ONE, with credit for time served.

CRIMINAL MONETARY PENALTIES

The defendant shall pay to the Clerk the following total criminal monetary penalties:

SPECIAL ASSESSMENT: $Remitted **FINE:** $ **RESTITUTION:** $

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than $25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, 880 Front Street, San Diego, California 92101. Payments should be credited to the various monetary penalties imposed by the Court in the priority established under 18 U.S.C. § 3612(c). The total special assessment of $Remitted shall be paid pursuant to Title 18, United States Code, Section 3013 for Count ONE of the Complaint.

Any unpaid balance shall become a condition of supervision and shall be paid within prior to the expiration of supervision. Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

IT IS FURTHER ORDERED that the Clerk of the Court deliver two certified copies of this judgment to the United States Marshal of this district.

The Court orders commitment to the custody of the Bureau of Prisons.
The defendant is remanded to the custody of the United States Marshal.

Date of Imposition of Sentence: **Friday, April 4, 2008**

______________________________ Date 4/4/2008

JAY R. IRWIN, United States Magistrate Judge

RETURN

I have executed this Judgment as follows: ______________________________

Defendant delivered on __________ to ______________________ at ______________________, the institution designated by the Bureau of Prisons, with a certified copy of this judgment in a Criminal case.

______________________________ By: ______________________________
United States Marshal Deputy Marshal

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA - Yuma

MAGISTRATE JUDGE'S MINUTES

DATE: 4/4/2008 CASE NUMBER: 08-15573-001M-SD

PLEA/SENTENCING MINUTES

USA vs. Emilio Avila-Barba

U.S. MAGISTRATE JUDGE: JAY R. IRWIN Judge #: 70BK

U.S. Attorney ____________________ INTERPRETER REQ'D Marcia Resler
LANGUAGE: Spanish

Attorney for Defendant Brenda Acosta Sandoval (AFPD)

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☐ RELEASED ☒ CUSTODY

DOA 4/3/2008 ☒ Complaint Filed ☒ Appointment of counsel hearing held
☐ Financial Afdvt taken ☒ No Financial Afdvt taken ☐ Financial Afdvt sealed
☒ Initial Appearance

DETENTION HEARING: ☐ Held ☐ Cont'd ☐ Reset ☐ UA
Set for: before:

☐ Defendant ordered temporarily detained in the custody of the United States Marshal
☐ Defendant ordered released (see order setting cond of rel) ☐ Bail set at $__________
☐ Defendant continued detained pending trial ☐ Flight Risk ☐ Danger

PLEA HEARING: ☒ Held ☐ Cont'd ☐ Reset
Set for: before:

☐ Consent to be tried by a Magistrate Judge signed ☐ Class A Misd ☐ Class B Misd ☐ Class C Misd
☐ Consent of Defendant ☐ Information filed ______________ ☐ Complaint filed ______________
☒ Defendant sworn and examined by the Court ☒ Plea of Guilty ☐ Not Guilty ☒ Entered to Counts ONE
☐ Defendant states true name to be _____. Further proceedings ORDERED in defendant's true name.
☒ Plea of Guilty entered as to Ct(s) ONE of the ☐ Information ☐ Indictment ☒ Complaint
☒ Court recommends/or accepts defendant's plea and finds plea to be freely and voluntarily given.
☐ Plea agreement: ☐ Lodged ☐ Filed ☐ Sealed
☐ Court does not accept defendant's plea of guilty because ____________________
☐ PSI ORDERED ☐ EXPEDITED ☒ PSI waived ☐ Time waived for passage of sentence
☐ Continued for sentence to ___ before ____________________
☐ To be dismissed upon entry of the judgment, Ct(s) ____
☒ ORDER vacate trial date/motion hearing/mtns moot
☐ ORDER defendant remain released pending sentence ☒ remanded to USM

SENTENCING:

☒ Defendant committed to Bureau of Prisons for a period of 15 Days ☐ Probation/Supervised Release for ________
☒ Special Assessment $ REMITTED ☐ Fine $______ ☐ Restitution $______

Other: ____________________

RECORDED: CS
BY: Jocelyn M. Arviso, Deputy Clerk

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
V.
Emilio AVILA-Barba
Citizen of Mexico
YOB: 1969
088764951
Illegal Alien

CRIMINAL COMPLAINT

CASE NUMBER: 08-15573M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

COUNT I

That on or about April 3, 2008, near Andrade, California in the Southern District of California, Defendant Emilio AVILA-Barba, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers of the United States of America, in violation of Title 8, United States Code, Section 1325 (Misdemeanor).

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Nicholas Francescutti
Signature of Complainant
Nicholas Francescutti
Senior Patrol Agent

Sworn to before me and subscribed in my presence,

April 4, 2008 at Yuma, Arizona
Date City and State

Jay R. Irwin, U.S. Magistrate
Name & Title of Judicial Officer

Signature of Judicial Officer

STATEMENT OF FACTUAL BASIS

Defendant: Emilio AVILA-Barba

Dependents: 3 Mexican

IMMIGRATION HISTORY: The Defendant is an illegal alien.

CRIMINAL HISTORY: None Found.

Narrative: The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Andrade, California.

The Defendant was questioned as to his citizenship and immigration status. Agents determined that the Defendant is an undocumented National of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant is being presented for prosecution proceedings under "Operation Streamline." The Defendant entered the United States from Mexico through a designated "zero tolerance zone."

The Defendant last entered the United States illegally without inspection near Andrade, California on April 3, 2008.

Charges: 8 USC§1325 (Misdemeanor)

Nicholas Francescutti
Signature of Complainant

Sworn to before me and subscribed in my presence,

April 4, 2008
Date

Signature of Judicial Officer